IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO. 1142 OF 2005
IN
SUIT NO. 534 OF 2003

Satyanarayan Mahadev Malpani & ors. ... PLAINTIFF

V/s.

Lancelot s/o. Theago John Baptist D'Souza & ors. ... DEFENDANTS

Ms. Neeta Solanki i/b. Kiran Jain & Co. for the plaintiff.
Ms. Purnima Bhatia for defendant No. 1.

CORAM : ANOOP V. MOHTA, J.
DATED : 21st April, 2006

P.C.

. Heard.

2. By this Notice of Motion in a suit of the year 1991, which was transferred to the High Court in the year 2002, the plaintiff has claimed various injunction orders, on the foundation that till 2002 an ad-interim order passed in the suit by the City Civil Court was in operation. There is nothing pointed out on record that since the transfer of the suit in High Court there was any ad-interim order is in operation. By this Notice of Motion dated 12th April, 2005, the plaintiff now seeking for the same ad-interim relief. There is no dispute that no ad-interim relief has been

granted in this Notice of Motion till this date. There is no affidavit filed by defendant Nos. 3 & 4. The affidavit filed by defendant No. 1 makes positive statement in para 2. It is as under :-

"I say that the Notice of Motion taken out by the Plaintiff is infructuous since the suit plot has already been sold and transferred to the deceased 2nd Defendant, who has, in his turn transferred the same to Defendant Nos. 3 and 4, who in their turn consumed the entire FSI in dispute and sold various premises constructed on the suit plot to acquirers of Flats and other premises and nothing survives in the suit or in the Notice of Motion. Hence, the reliefs prayed for in the Notice of Motion are not capable of being granted and the same is liable to be and should be dismissed with costs."

3. Considering this, I see there is no reason to pass any interim relief as prayed in this Notice of Motion. I see, there is no any urgency made out at this stage of this proceeding to pass such order. However, keeping all points open, this Notice of Motion is disposed of with liberty.

[ANOOP V. MOHTA, J.]